

B. Wright  
FILED

BEFORE THE KANSAS DENTAL BOARD

APR 10 2007

KANSAS DENTAL BOARD

In the Matter Of )

KELLEY A. SHEPARD, R.D.H. )

License No. 1608 )

Case No.: 06-1852-1608

OAH No.: 07DB0003

INITIAL ORDER

Pursuant to K.S.A. 77-516(c)(8) and K.S.A. 77-520, Kelley A. Shepard, RDH ("Respondent"), is in default for failure to attend and participate in the Prehearing Conference held on the 27<sup>th</sup> day of March, 2007, beginning at 3:00 p.m. at the Office of Administrative Hearings, 1020 S. Kansas Avenue, Topeka, Kansas 66612. Due to the Respondent's default, the Office of Administrative Hearings enters the following Initial Order, which is based on the Petition to Revoke, Suspend, or Otherwise Discipline Licensure, as set forth more fully below.

**I. FINDINGS OF FACT**

1. The Kansas Dental Board ("Board") previously issued Respondent License Number 1608, which entitled her to practice dental hygiene in the State of Kansas ("License").

2. In or around May 2005, the Respondent, on one or more occasions, was under the influence of alcohol when she reported to work. When confronted with the conduct, the Respondent failed to demonstrate an appreciation of the seriousness of her actions. The Respondent's conduct was subsequently referred to Heart of America Professional Network ("HAPN").

3. On or about May 26, 2005, HAPN contacted the Respondent to request an evaluation to determine whether the Respondent had a problem or illness which had or could impair her ability to practice safely. After an evaluation determined that the Respondent was alcohol dependent, the Respondent attended an Intensive Outpatient Program for alcohol dependence at Mill Creek Outpatient Services and sought assistance through The Kansas Dental Impaired Provider Program. The Respondent then entered into an agreement with

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HAPN on or about August 15, 2005. Continued compliance with the requirements of the HAPN agreement and recovery requirements was essential to the Respondent being able to practice hygiene safely.

4. On or about August 30, 2005, the Respondent's UA was positive for alcohol, but the Respondent denied using any alcohol product.

5. On or about November 17, 2005, the Respondent was notified that she was not in compliance with her agreement with HAPN because she had failed to attend monthly monitoring meetings, turn in any 12-step program sheets, follow through on aftercare or counseling at Mill Creek Outpatient Services, enroll in Compass Vision, and provide a UA.

6. On or about December 29, 2005, the Respondent was again notified that she was not in compliance with her agreement with HAPN and that her case could be closed for non-compliance and reported to the Board.

7. Notwithstanding the Respondent's agreement with HAPN, the Respondent failed to maintain compliance with her agreement. As a result, on or about January 19, 2006, the Respondent's case with HAPN was closed for non-compliance. The Respondent's failure to maintain compliance with the HAPN agreement and recovery requirements renders her unsafe to practice hygiene.

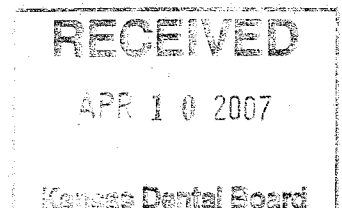
8. Notwithstanding Notice of the Prehearing Conference in this matter, the Respondent did not submit a Prehearing Questionnaire.

9. Notwithstanding Notice of the Prehearing Conference in this matter, the Respondent did not attend the Prehearing Conference.

## II. CONCLUSIONS OF LAW AND FACT

10. In or around May 2005, the Respondent, on one or more occasions, was under the influence of alcohol when she reported to work. As a result, the Respondent was working as a dental hygienist in the State of Kansas while under the influence of alcohol.

11. The Respondent is not in compliance with the HAPN agreement she executed on or about August 15, 2005. Continued compliance with the requirements of the HAPN



agreement and recovery requirements are essential to the Respondent being able to practice hygiene safely.

12. The Respondent violated the Kansas Dental Law as specified in Count I of the Petition to Revoke, Suspend or Otherwise Discipline Licensure. As a result, the Respondent's License to practice dental hygiene may be disciplined pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436(a)(2), in that she has habitually used intoxicants or drugs which have rendered her unfit for the practice of dental hygiene.

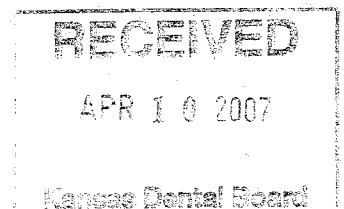
13. The Respondent violated the Kansas Dental Law as specified in Count II of the Petition to Revoke, Suspend or Otherwise Discipline Licensure. As a result, the Respondent's License to practice dental hygiene may be disciplined pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436(a)(3), as further defined by K.S.A. 65-1436(c)(3), in that she has engaged in a pattern of dental hygiene practice or other behavior which demonstrates a manifest incapacity or incompetence to practice.

### **ORDER**

14. Based upon the Respondent's default for failure to attend and participate in the Prehearing Conference held on March 27, 2007, and the foregoing findings and conclusions, the Respondent's License to practice dental hygiene in the State of Kansas (Kansas License Number 1608) is hereby revoked until further order of the Board.

### **APPEAL RIGHTS AND OTHER ADMINISTRATIVE RELIEF**

Pursuant to K.S.A. 77-527, either party may request a review of this initial order by filing a petition for review with the Kansas Dental Board. A petition for review must be filed within 15 days from the date this initial order was served. Failure to timely request a review by the Kansas Dental Board may preclude further judicial review. The petition for review shall be mailed or personally delivered to: Kansas Dental Board, Attn: Betty Wright, Executive Director, 900 SW Jackson, Room 564-S, Topeka, Kansas 66612.

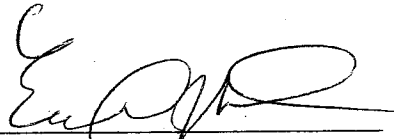


If neither party requests a review by the Kansas Dental Board, then pursuant to K.S.A. 77-530, this initial order becomes final and binding on both parties on the 30<sup>th</sup> day following its service.

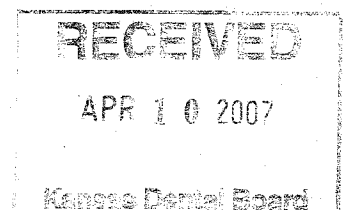
Pursuant to K.S.A. 77-528, if a stay of the initial order is desired after a petition for review has been filed, a petition to stay the effectiveness of the initial order must be filed with the presiding officer prior to the expiration of the time to file a petition for judicial review.

Pursuant to K.S.A. 77-531, if the initial order is served by mail, three days are added to the time limits set out above.

**IT IS SO ORDERED.**



Edward J. Gaschler  
Presiding Officer  
Office of Administrative Hearings



**CERTIFICATE OF SERVICE**

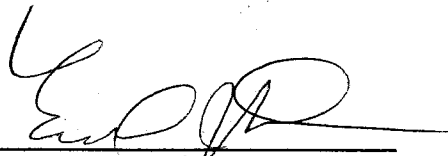
I hereby certify that I filed this original Initial Order by depositing in the United States mail, postage prepaid, on this 10 day of April, 2007, addressed to:

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Edward J. Gaschler  
Presiding Officer  
Office of Administrative Hearings

